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NITROGEN OXIDE EMISSIONS REDUCTIONS

21178.1. (a) This section applies only to an application, received on or before July 1, 1993, by the permit issuing agency, for a permit to construct a project consisting of facilities, processing units, or equipment necessary to produce Phase 2 reformulated gasoline.

(b) A lead agency shall determine whether an environmental impact report should be prepared within 30 days of its determination that the application for the project is complete.

(c) If a lead agency determines that an environmental impact report should be prepared, the lead agency shall send a notice of preparation as provided in Section 21080.4 within 10 days of that determination.

(d) If the environmental impact report will be prepared under contract to the lead agency pursuant to Section 21082.1, the lead agency shall issue a request for proposals for preparation of the report as soon as it has enough information to prepare a request for proposals, and in any event, not later than 30 days after the time for response to the notice of preparation has expired. The contract shall be awarded within 30 days of the response date for the request for proposals.

(e) The period of time for public review and comment on a draft environmental impact report shall be 45 days from the date that a copy of the draft environmental impact report is sent along with the public notice by first-class mail, or any other method which is at least as prompt, to any person who so requests. The lead agency may extend the comment period for not more than 15 days if it determines that the public interest will be served. This subdivision shall not be construed to limit the authority of the lead agency to hold a public hearing to receive comments on the draft report after expiration of the 45-day period, or any extended review period. Any comment concerning the adequacy of a negative declaration or environmental impact report which is not received by the lead agency within the 45-day comment period, within any extended review period, or at a public hearing held after the expiration of the 45-day period, shall not be considered part of the record before the lead agency in considering a project approval.

(f) Where a public agency has approved a negative declaration or certified an environmental impact report and approved a project, but has failed to file, within five working days after the approval becomes final, the notice required by subdivision (a) of Section 21152, the permit applicant may file a notice of approval with the county clerk, as specified in Section 21152. The notice shall identify the approving agency and contain all of the information required by Section 21152. For purposes of Section 21167, a permit applicant's filing of a notice pursuant to this subdivision shall have the same effect as the public agency's filing of the notice required by Section 21152.

(g) Mitigation measures imposed by the lead agency shall bear a reasonable relationship to the significant impacts to be mitigated.

(h) No environmental impact report shall include a discussion of a "no project" alternative, nor shall it include a discussion of any alternative sites for the project which are outside of existing refinery boundaries.

(i) Any action or proceeding brought pursuant to subdivision (c) of Section 21167 shall be commenced within 20 days after the filing of the notice required by subdivision (a) of

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Section 21152 by the lead agency if the final environmental impact report is sent at least 15 days before the notice is filed, by first-class mail.

(j) No action brought pursuant to subdivision (c) of Section 21167 shall be brought by any person unless that person submitted comments on the draft environmental impact report.

(k) For the purposes of this section, "Phase 2 reformulated gasoline" means gasoline meeting the specifications adopted by the State Air Resources Board on November 22, 1991, and as subsequently approved by the Office of Administrative Law or in compliance with the regulations adopted by the Environmental Protection Agency for the sale of reformulated gasoline on or after January 1, 1995 in the South Coast Air Basin, San Diego County, and Ventura County.

(l) The deadlines established in subdivisions (b), (c), and (d) may be extended by a public agency to the extent that delay is caused by a failure of the applicant to provide necessary information on a timely basis or by a delay in the applicant paying any fees required by the lead agency for preparation of the environmental impact report.

(m) This section shall become inoperative on March 1, 1996, and as of January 1, 1997, is repealed, unless a later enacted statute, which is enacted on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

(Added by Stats. 1992, Ch. 945, Sec. 17. Effective January 1, 1993. Inoperative March 1, 1996. Repealed as of January 1, 1997, by its own provisions.)

CALIFORNIA ENVIRONMENTAL PROTECTION PROGRAM

21190. There is in this state the California Environmental Protection Program, which shall be concerned with the preservation and protection of California's environment. In this connection, the Legislature hereby finds and declares that, since the inception of the program pursuant to the Marks-Badham Environmental Protection and Research Act, the Department of Motor Vehicles has, in the course of issuing environmental license plates, consistently informed potential purchasers of those plates, by means of a detailed brochure, of the manner in which the program functions, the particular purposes for which revenues from the issuance of those plates can lawfully be expended, and examples of particular projects and programs that have been financed by those revenues. Therefore, because of this representation by the Department of Motor Vehicles, purchasers come to expect and rely that the moneys paid by them will be expended only for those particular purposes, which results in an obligation on the part of the state to expend the revenues only for those particular purposes. Accordingly, all funds expended pursuant to this division shall be used only to support identifiable projects and programs of state agencies, cities, cities and counties, counties, districts, the University of California, private nonprofit environmental and land acquisition organizations, and private research organizations which have a clearly defined benefit to the people of the State of California and which have one or more of the following purposes:

(a) The control and abatement of air pollution, including all phases of research into the sources, dynamics, and effects of environmental pollutants.

(b) The acquisition, preservation, restoration, or any combination thereof, of natural areas or ecological reserves.

(c) Environmental education, including formal school programs and informal public education programs. The State Department of Education may administer moneys appropriated for these programs, but shall distribute not less than 90 percent of moneys appropriated for the purposes of this subdivision to fund environmental education programs of school districts, other local schools, state agencies other than the State Department of Education, and

community organizations. Not more than 10 percent of the moneys appropriated for environmental education may be used for State Department of Education programs or defraying administrative costs.

(d) Protection of nongame species and threatened and endangered plants and animals.

(e) Protection, enhancement, and restoration of fish and wildlife habitat and related water quality, including review of the potential impact of development activities and land use changes on that habitat.

(f) The purchase, on an opportunity basis, of real property consisting of sensitive natural areas for the state park system and for local and regional parks.

(g) Reduction or minimization of the effects of soil erosion and the discharge of sediment into the waters of the Lake Tahoe region, including the restoration of disturbed wetlands and stream environment zones, through projects by the California Tahoe Conservancy and grants to local public agencies, state agencies, federal agencies, and nonprofit organizations.

(Amended by Stats. 1991, Ch. 821, Sec. 1.)

21191.(a) The California Environmental License Plate Fund which supersedes the California Environmental Protection Program Fund is continued in existence in the State Treasury, and consists of the moneys deposited in the fund pursuant to any provision of law. The Legislature shall establish the amount of fees for environmental license plates, which shall be not less than forty dollars (\$40) for the issuance or twenty- five dollars (\$25) for the renewal of an environmental license plate.

(b) The Controller shall transfer from the California Environmental License Plate Fund to the Motor Vehicle Account in the State Transportation Fund the amount appropriated by the Legislature for the reimbursement of costs incurred by the Department of Motor Vehicles in performing its duties pursuant to Sections 5004, 5004.5, and 5022 and Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code. The reimbursement from the California Environmental License Plate Fund shall only include those additional costs which are directly attributable to any additional duties or special handling necessary for the issuance, renewal, or retention of the environmental license plates.

(c) The Controller shall transfer to the post fund of the Veterans' Home of California, established pursuant to Section 1047 of the Military and Veterans Code, all revenue derived from the issuance of prisoner of war special license plates pursuant to Section 5101.5 of the Vehicle Code less the administrative costs of the Department of Motor Vehicles in that regard.

(d) The Director of Motor Vehicles shall certify the amounts of the administrative costs of the Department of Motor Vehicles in subdivision (c) to the Controller.

(e) The balance of the moneys in the California Environmental License Plate Fund shall be available for expenditure only for the exclusive trust purposes specified in Section 21190, upon appropriation by the Legislature. However, all moneys derived from the issuance of commemorative 1984 Olympic reflectorized license plates in the California Environmental License Plate Fund shall be used only for capital outlay purposes.

(f) All proposed appropriations for the program shall be summarized in a section in the Governor's Budget for each fiscal year and shall bear the caption "California Environmental Protection Program." The section shall contain a separate description of each project for which an appropriation is made. All such appropriations shall be made to the department performing the project and accounted for separately.

(g) The budget the Governor presents to the Legislature pursuant to subdivision (a) of Section 12 of Article IV of the California Constitution shall include, as proposed

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appropriations for the California Environmental Protection Program, only projects and programs recommended for funding by the Secretary of the Resources Agency pursuant to subdivision (a) of Section 21193. The Secretary of the Resources Agency shall consult with the Secretary for Environmental Protection before making any recommendations to fund projects pursuant to subdivision (a) of Section 21190.

(Amended by Stats. 1991, Ch. 821, Sec. 2.)

21192. The funds provided for in subdivision (c) of Section 21191 may be used in a manner which will allow the state to qualify for any funds which may be available from any source for the purpose of carrying out the provisions of this division.

(Added by Stats. 1979, Ch. 1105.)

21193. The program established by this division shall be administered by the Secretary of the Resources Agency who shall:

(a) On or before November 1 of each year, forward those projects and programs recommended for funding to the Governor for inclusion in the Budget Bill, together with a statement of the purpose of each such project and program, the benefits to be realized, and the secretary's comments thereon.

(b) Periodically review projects subsequent to their funding under this division and report thereon to the Governor and the Legislature.

(Added by Stats. 1979, Ch. 1105.)

21194. Notwithstanding any other provision of law, any funds appropriated from the California Environmental License Plate Fund for the construction of a visitor center at Buena Vista Lagoon may be used to reimburse the City of Oceanside for any funds that the city has advanced for that project construction.

(Added by Stats. 1988, Ch. 381, Sec. 1.)

ENERGY CONSERVATION AND DEVELOPMENT

25000.5. (a) The Legislature finds and declares that over dependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries.

(b) Therefore, it is the policy of this state to fully evaluate the economic and environmental costs of petroleum use, and the economic and environmental costs of other transportation fuels, including the costs and values of environmental externalities, and to establish a state transportation energy policy that results in the least environmental and economic cost to the state. In pursuing the "least environmental and economic cost" strategy,

it is the policy of the state to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution, and to achieve energy security, diversity of supply sources, and competitiveness of transportation energy markets based on the least environmental and economic cost.

(c) For the purposes of this section, "petroleum based fuels" means fuels derived from liquid unrefined crude oil, including natural gas liquids, liquified petroleum gas, or the energy fraction of methyltertiarybutylether (MTBE) or other ethers that is not attributed to natural gas.

(Added by Stats. 1991, Ch. 900, Sec. 3.)

25309.1. Commencing January 1, 1992, as part of the biennial report required by Section 25309, the commission shall include a forecast of statewide and regional transportation energy demand for a 5-, 12-, and 20-year planning horizon for the following scenarios:

(a) A forecast of energy use reasonably expected to occur through currently planned and adopted energy efficiency, conservation, and alternative fuels programs.

(b) A forecast of energy use under a maximum petroleum use reduction scenario, assuring achievement of maximum feasible transportation energy efficiency and conservation measures and maximum feasible fuel diversity.

(c) A forecast of energy use under a "least environmental and economic cost" scenario, including the costs and values of externalities. The least environmental and economic cost scenario shall, in addition to conventional economic data, utilize assessments of costs and values associated with environmental quality, life-cycle energy and environmental costs, energy diversity, and energy security, and to the extent feasible integrate the costs and values associated with the following:

(1) Air pollution, water pollution, global warming, and other adverse environmental impacts of transportation energy exploration, development, production, and use.

(2) Future price changes in energy resources and supply disruptions, including the effects of price changes and supply disruptions on business and commerce and public welfare.

(3) Considerations of energy security and preparedness, including the costs of maintaining access to foreign energy supplies.

(4) Maintaining state and federal strategic energy reserves.

(Added by Stats. 1991, Ch. 900, Sec. 4.)

25310.1. Report on expected availability and prices of fuels for low-emission motor vehicles using methanol or other clean-burning fuels The commission, in cooperation with the State Air Resources Board, shall prepare, by September 1, 1988, a report on the expected availability and prices of fuels which are anticipated to be required for use in low-emission motor vehicles using methanol or other clean-burning fuels and shall thereafter include, in its biennial report prepared under Section 25310, information on the expected availability and prices of those fuels. The report shall include an assessment of the relative cost to users, compared to gasoline, of these fuels. The report shall also recommend to the Legislature any changes needed to ensure that these fuels are used to the greatest extent practicable. This information shall be included in the 1989 biennial report and in each report thereafter. The 1991 and later biennial reports shall include an assessment of the success of the introduction, prices, and availability of these fuels.

(Added by Stats. 1987, Ch. 1326, Sec. 4.)

25310.2. Report requirements The report required by Section 25310 shall also include, to the extent funds are available in the existing budget of the commission, information relating to methanol, fuel cells, liquid petroleum gas, natural gas, and electricity. The report shall also describe the availability, economic cost, and air quality benefits associated with the use of clean-burning fuels in the stationary source and transportation sectors of California and shall consider the use of new pollution control technologies in conjunction with traditional fuels in comparison with the use of clean-burning fuels. This segment of the report shall be developed in consultation with the Public Utilities Commission, the State Air Resources Board, and the air pollution control districts and air quality management districts.

(Added by Stats. 1988, Ch. 1546, Sec. 5.)

25310.3. Inclusion in reports of incentives The 1991 report and subsequent biennial reports prepared pursuant to Section 25310 shall include a report on the impact and administration of incentives designed to encourage the purchase and use of low-emission vehicles, including, but not limited to, the incentives established under Section 6356.5 of the Revenue and Taxation Code.

(Added by Stats. 1989, Ch. 990, Sec. 4., Effective September 29, 1989.)

25310.4.(a) Commencing September 1, 1993, the commission, in consultation with the State Air Resources Board and the Public Utilities Commission, may direct fuel producers, suppliers, distributors, and the owners and lessors of retail fueling outlets, that are selling fuels used by low-emission vehicles, to provide the commission, on a periodic basis as scheduled by the commission, with data and information, not otherwise supplied under Chapter 4.5 (commencing with Section 25350), concerning fuel availability, posted or average wholesale or rack prices, and prices charged for those fuels. The commission may request other low-emission vehicle fuel information needed to fulfill its reporting obligations under Sections 25310.1, 25310.2, and 25310.3, and subdivision (c). The information shall be provided to the commission in the form and to the extent that the commission prescribes. To the maximum extent practicable, the commission shall use existing reporting forms and procedures to implement this section.

(b) The information and data provided to the commission pursuant to this section shall be subject to the confidentiality provisions of Section 25364.

(c) Commencing in 1995, the biennial report prepared pursuant to Section 25310 shall include a report on whether fuels used for low-emission vehicles are being effectively marketed and effectively made available to customers, and shall include recommendations for ensuring the availability of those fuels to customers.

(Added by Stats. 1992, Ch. 67, Sec. 1. Effective May 27, 1992.)

25324. The commission, in consultation with the State Air Resources Board, the California Transportation Commission, the Office of Planning and Research, air pollution control districts and air quality management districts, affected industries, and the public, shall identify and evaluate energy programs which might be used to achieve the forecast of energy use under a least environmental and economic cost scenario, as described in subdivision (c) of Section 25309.1. The programs shall include, but not be limited to, the following:

(a) Conservation programs.

- (b) Economic and regulatory incentives, including congestion charges.
 - (c) Accelerated introduction of nonpetroleum based vehicles and fueling facilities, and accelerated sale of nonpetroleum based fuels.
 - (d) Transportation control measures, including energy efficient integrated transportation and land use planning.
- (Added by Stats. 1991, Ch. 900, Sec. 5.)

25325. Based on the information and evaluation developed in Sections 25309.1 and 25324, and consultation with affected public and private entities, the commission shall report the results of the evaluation to the Legislature, including long- range and interim targets for transportation energy use reduction and fuel diversity, which shall be designed to achieve the least environmental and economic cost forecast required pursuant to subdivision (c) of Section 25309.1.

(Added by Stats. 1991, Ch. 900, Sec. 6.)

25326.(a) The commission, in collaboration with the Department of Transportation, the Public Utilities Commission, and the State Air Resources Board, shall develop a consumer recharging and refueling infrastructure master plan to support development, production, and operation of alternative fuel vehicles. Development of the master plan shall be accomplished in collaboration with air pollution control districts and air quality management districts, regional agencies, counties, cities, public utilities, the private business sector, and alternative fuel vehicle associations and research organizations. The plan shall include, but not be limited to, all of the following:

- (1) Ensuring adequate supplies of clean fuels, including utility capacities and load management options.
- (2) Identifying potential convenient public and private recharging or refueling facilities.
- (3) Developing standard specifications, including design and testing procedures, for chargers, electrical components, and refueling outlets.
- (4) Providing customer service, education, and training.
- (5) Exploring development of public quick recharging and refueling networks.
- (6) Recommending electrical code, building code, and other regulatory revisions.
- (7) Initiating strategies to require automobile manufacturers to take responsibility for all support related to original equipment manufactured vehicles, including service, sales, warranties, spare parts, and distribution.

(8) Considering criteria, as determined by the Legislature and the Public Utilities Commission, governing ratepayer responsibility for utility infrastructure development.

(b) In the development of the master plan, consideration shall be given to the types of clean fuels that are likely to be in use in the foreseeable future in compliance with existing state and federal air quality laws and regulations governing vehicle emission standards. For purposes of this section, clean fuels are fuels designated by the State Air Resources Board for use in low, ultralow, or zero emission vehicles and include, but are not limited to, electricity, ethanol, hydrogen, liquefied petroleum gas, methanol, natural gas, and reformulated gasoline.

(c) The commission shall complete the master plan and report its findings to the Governor and the Legislature, including recommendations and timelines for plan implementation, not later than January 1, 1994.

(d) It is the intent of the Legislature that the activities required pursuant to this section shall be funded from existing resources of the commission.

(Added by Stats. 1992, Ch. 762, Sec. 2. Effective January 1, 1993.)

25364.(a) Any person required to present information to the commission pursuant to Section 25354 may request that specific information be held in confidence.

(b) Information presented to the commission pursuant to Section 25354 shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying the information.

(c) (1) Whenever the commission receives a request to publicly disclose unaggregated information, or otherwise proposes to publicly disclose information submitted pursuant to Section 25354, notice of the request or proposal shall be provided to the person submitting the information. The notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 working days in which to respond to the notice to justify the claim of confidentiality on each specific item of information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

(2) The commission shall consider the respondent's submittal in determining whether to publicly disclose the information submitted to it to which a claim of confidentiality is made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information submitted to it pursuant to Section 25354 within 10 working days after the commission has issued its written decision required in this section.

(e) No information submitted to the commission pursuant to Section 25354 shall be deemed confidential if the person submitting the information or data has made it public.

(f) With respect to information provided pursuant to subdivision (h) of Section 25354, neither the commission, nor any employee of the commission, may do any of the following:

(1) Use the information furnished under subdivision (h) of Section 25354 for any purpose other than the statistical purposes for which it is supplied.

(2) Make any publication whereby the information furnished by any particular establishment or individual under subdivision (h) of Section 25354 can be identified.

(3) Permit anyone other than commission members and employees of the commission to examine the individual reports provided under subdivision (h) of Section 25354.

(g) Notwithstanding any other provision of law, the commission may disclose confidential information received pursuant to subdivision (a) of Section 25310.4 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.

(Amended by Stats. 1992, Ch. 333, Sec. 1. Effective January 1, 1993.)

25402.8. When assessing new building standards for residential and nonresidential buildings relating to the conservation of energy, the commission shall include in its deliberations the impact that these standards would have on indoor air pollution problems.

(Amended by Stats. 1994, Ch. 1145, Sec. 7.)

25618.(a) The commission shall facilitate development and commercialization of ultra low- and zero-emission electric vehicles and advanced battery technologies, as well as development of an infrastructure to support maintenance and fueling of those vehicles in California. Facilitating commercialization of ultra low- and zero-emission electric vehicles in California shall include, but not be limited to, the following:

(1) The commission may, in cooperation with county, regional, and city governments, the state's public and private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero- emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the commission shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

(Added by Stats. 1991, Ch. 939, Sec. 3.)

SOLID WASTE FACILITIES

44201. As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

(a) "Indian country" has the same meaning as set forth in Section 1151 of Title 18 of the United States Code.

(b) "Tribe" means an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe as defined herein, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and is identified on pages 52829 to 52835, inclusive, of Number 250 of Volume 53 (December 29, 1988) of the Federal Register, as that list may be updated or amended from time to time.

(c) "Solid waste" has the same meaning as set forth in Section 40191.

(d) "Solid waste facility" has the same meaning as set forth in Section 40194.

(e) "Operator" means a person who operates a solid waste facility.

(f) "Owner" means a person who owns a solid waste facility.

(g) "Secretary" means the Secretary for Environmental Protection.

(h) "State" means the State of California and any agency or instrumentality thereof.

(i) "Siting" means the physical suitability of a location proposed for a solid waste facility.

(Amended by Stats. 1992, Ch. 427, Sec. 150. Effective January 1, 1993.)

44202.(a) Upon receipt of a written request from any tribe considering a proposal to construct each solid waste facility in that tribe's Indian country within this state, the secretary shall convene negotiations for purposes of reaching a cooperative agreement pursuant to this article, which will define the respective rights, duties, and obligations of the state and the tribe concerning the approval, development, and operation of the facility. In convening the negotiations, the secretary shall consult with the California Integrated Waste Management Board, the State Water Resources Control Board, the appropriate California regional water quality control board, the State Air Resources Board, and the appropriate air pollution control district or air quality management district.

(b) This article does not apply to any facility located on Indian country within the state if it meets all of the following requirements:

- (1) The facility is owned and operated solely by a tribe.
- (2) All solid waste accepted by the facility is generated by that particular tribe.
- (3) Appropriate federal agencies have approved the facility.

(Added by Stats. 1991, Ch. 805, Sec. 4.)

44203.(a) The secretary may enter into any cooperative agreement which meets the requirements of this article.

(b) Each cooperative agreement shall include, but shall not be limited to, all requirements determined to be necessary to meet the requirements of subdivision (e) to do all of the following:

- (1) Protect water quality, as determined by the State Water Resources Control Board or the appropriate California regional water quality control board.
- (2) Protect air quality, as determined by the State Air Resources Board or the appropriate air pollution control officer.
- (3) Provide for proper management of solid wastes, as determined necessary by the California Integrated Waste Management Board.
- (4) In making these determinations, the state agencies shall consider any applicable federal environmental and public health and safety laws.

(c) A decision by the secretary whether to enter into a cooperative agreement shall be based on a good faith determination concerning whether a proposed cooperative agreement meets the requirements of this article. The secretary shall take this action within 130 days of a written request by the tribe that the secretary approve a draft cooperative agreement. At least 60 days prior to determining whether to enter into a cooperative agreement, the secretary shall provide notice, and make available for public review and comment, drafts of his or her proposed action and drafts of the findings and determinations that are required by this section. The secretary shall hold a public hearing in the affected area on the proposed action within the time period for taking that action, as specified in this section. Within 10 days after the close of the public review and comment period, the agencies shall complete the determinations required by this section and the secretary shall issue a final decision.

(d) The findings and determinations of the secretary and relevant agencies made pursuant to this section shall explain material differences between state laws and regulations and the proposed tribal or federal functionally equivalent provisions. The findings and determinations do not need to explain each difference between the state and tribal or federal

requirements as long as they identify and evaluate whether the material differences meet the requirements of this article, including, but not limited to, providing at least as much protection for public health and safety and the environment as would the state requirements.

(e) Any cooperative agreement executed pursuant to this article shall provide for regulation of the solid waste facility through inclusion in the agreement of design, permitting, construction, siting, operation, monitoring, inspection, closure, postclosure, liability, enforcement, and other regulatory provisions applicable to a solid waste facility, or which relate to any environmental consequences that may be caused by facility construction or operation, that are functionally equivalent to all of the following:

(1) Article 4 (commencing with Section 13260) of Chapter 4 of, Chapter 5 (commencing with Section 13300) of, and Chapter 5.5 (commencing with Section 13370) of, Division 7 of the Water Code.

(2) Chapter 3 (commencing with Section 41700) of, Chapter 4 (commencing with Section 42300) of, and Chapter 5 (commencing with Section 42700) of, Part 4 of, and Part 6 (commencing with Section 44300) of, Division 26 of the Health and Safety Code.

(3) This division.

(4) All regulations adopted pursuant to the statutes specified in this section.

(5) Any other provision of state environmental, public health, and safety laws and regulations germane to the solid waste facility proposed by the tribe.

(f) The tribal organizational structures or other means of implementing the requirements specified in subdivision (e) are not required to be the same as the state organizational structures or means of implementing its system of regulation.

(g) Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 44205, shall constitute a "project" as defined in Section 21065 and shall not be subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(h) Each cooperative agreement shall provide for the incorporation of the standards and requirements germane to the protection of the environment, public health, and safety listed in subdivision (e), as enacted, or as those provisions may be amended after January 1, 1992, or after the effective date of any cooperative agreement, if those standards and requirements meet both of the following requirements:

(1) The standards and requirements do not discriminate against a tribe which has executed a cooperative agreement, or a lessee of the tribe, and are applicable to, or not more stringent than, other rules applicable to other similar or analogous facilities or operations outside Indian country.

(2) Adequate notice and opportunity for comment on the incorporation of new and amended standards or requirements are provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

(Amended by Stats. 1992, Ch. 427, Sec. 151. Effective January 1, 1993.)

44204.(a) A tribe shall be eligible for technical assistance to the extent feasible, from the agencies specified in subdivision (b) of Section 44203, for the design, establishment, and implementation of a permit system, cooperative monitoring programs, a tribal enforcement system, and implementation of any other regulatory requirement.

(b) Each cooperative agreement shall provide for reasonable compensation to relevant state agencies for costs and expenses incurred by the state in connection with technical assistance provided to the tribe for the regulatory activities provided in this article, including, but not limited to, monitoring, enforcement, permitting, review, and other activities described

in this article, and the reviews required by Section 44203, on a nondiscriminatory basis when compared with similar services to similar projects outside of Indian country.

(c) Each cooperative agreement shall provide for the sharing of appropriate data and other information between any tribal regulatory body, any federal agency, the owner or operator, and applicable state agencies, including, but not limited to, all monitoring data collected respecting the solid waste facility. The agreement shall provide for confidentiality of privileged, proprietary, or trade secret information.

(d) Each cooperative agreement shall include a dispute resolution mechanism for addressing issues of contract interpretation arising out of the cooperative agreement.

(e) The parties to a cooperative agreement executed pursuant to this article may mutually agree to modifications of time periods for actions which are required by this article, except the time periods provided for public notice, review, and comment shall not be eliminated or reduced.

(f) Each cooperative agreement shall require the relevant state agencies to provide detailed comments regarding completeness within 30 days after receiving copies of applications filed for tribal and applicable federal permits with respect to the deficiencies, if any, of the application with respect to the state standards identified in Section 44203. The failure of any of these state agencies to provide those comments within that period shall be deemed a finding of completeness of the respective applications.

(g) Each cooperative agreement shall provide for reasonable access by state agency personnel to Indian country governed by a tribe which has executed a cooperative agreement pursuant to this article for purposes of assistance with permit application review, inspection, and monitoring of operation of a solid waste facility. The cooperative agreement shall also provide for reasonable access for purposes of permit application review and inspection, to the extent the state can provide that access, by tribal regulatory authorities to transfer stations, or similar facilities, located outside of Indian country and handling waste to be transferred to tribal lands.

(Added by Stats. 1991, Ch. 805, Sec. 4.)

44205.(a) Each cooperative agreement shall require the public agencies specified in subdivision (b) of Section 44203 to review any draft tribal permit and any applicable federal permit to determine whether it contains all conditions sufficient to do all of the following:

(1) Meet the functionally equivalent standards provided in the cooperative agreement, as required by subdivision (e) of Section 44203.

(2) Provide not less than the level of protection for public health, safety, and the environment that would have been the case if that state agency had issued the permit.

(3) Implement all feasible mitigation measures. For purposes of this paragraph, "feasible" has the same meaning as in Sections 21001, 21002.1, and 21004, and any regulations adopted pursuant to those sections.

(b) Each cooperative agreement shall provide that the tribal or federal permits issued for the solid waste facility meet the requirements of this section.

(c) The failure of a party to a cooperative agreement to meet the requirements of this section shall be determined to be an actionable breach of the cooperative agreement.

(d) The election by a party to a cooperative agreement to pursue a contractual remedy shall not limit the ability of a party to assert its respective claims of jurisdiction or sovereign immunity.

(e) Entering into a cooperative agreement shall not be a basis for denying any remedy to which a party is otherwise entitled.

(f) Within 10 days of issuance of a final federal permit or tribal permit, a copy of that permit shall be provided to the California Environmental Protection Agency and the tribe having jurisdiction over the facility.

(Amended by Stats. 1992, Ch. 427, Sec. 152. Effective January 1, 1993.)

44206.(a) Nothing in this article shall limit or expand, or be construed to limit or expand, the jurisdiction of any state agency specified in subdivision (b) of Section 44203 or any tribal agency with respect to any solid waste facility located in Indian country, including, but not limited to, the enforcement powers and procedures available to the state or any tribe with respect to those facilities to the extent not preempted by federal law, including, but not limited to, powers and procedures contained in state or tribal statutes or regulations.

(b) The cooperative agreement shall provide that the state may exercise its enforcement powers over any solid waste facility project on Indian country where a cooperative agreement has been executed, subject to all of the following requirements:

(1) A violation or threatened violation of any standard or requirement set forth in Section 44203 or its functional equivalent in the cooperative agreement, or any condition set forth in a cooperative agreement or permit for the facility, has occurred or is occurring. For purposes of this paragraph, "threatened violation" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or natural resources.

(2) The violation or violations have been brought to the attention of the tribe and to the owner and operator of the solid waste facility, through written notice from the appropriate agency. The notice shall identify the specific violation or violations which are occurring or have occurred and a specific corrective or enforcement action or range of actions, including sufficient penalties. The notice shall include a specific and reasonable timeframe in which to take appropriate corrective or enforcement action.

(3) The tribe, after receiving the notice, has failed to take the action or actions, or to take other reasonable action to abate or correct the violation or violations, in a reasonable time.

(c) The functionally equivalent provisions of tribal or federal permits, as determined sufficient pursuant to Section 44205, together with any cooperative agreement approved pursuant to this article, shall collectively be deemed to constitute permits issued under state law for all purposes of enforcing state law.

(d) Notwithstanding subdivision (b), each of the public agencies specified in subdivision (b) of Section 44203 may immediately exercise its enforcement powers over any solid waste facility project on Indian country where a cooperative agreement has been executed, if, in the judgment of the public agency, immediate state action is required to avoid an imminent and substantial threat to public health and safety or to the environment. The state shall notify the tribe prior to taking any action pursuant to this subdivision.

(Amended by Stats. 1992, Ch. 113, Sec. 3. Effective July 1 1992.)

44207.(a) The cooperative agreement shall provide that the state or tribe may bring an appropriate civil action in a court of competent jurisdiction to enforce the terms of the cooperative agreement as a contract, and shall not limit the availability to either party of any remedy at law or in equity otherwise available under California law.

(b) The cooperative agreement shall require that the tribe waive its sovereign immunity from any action brought by the state in any court otherwise having jurisdiction over the subject matter, and that the state shall waive its sovereign immunity from any action brought by the tribe, in any court otherwise having jurisdiction over the subject matter, to enforce the terms of the cooperative agreement.

(Added by Stats. 1991, Ch. 805, Sec. 4.)

44208. A cooperative agreement executed pursuant to this article shall be executed for the express benefit of the citizens of this state.

(Added by Stats. 1991, Ch. 805, Sec. 4.)

44209. Any person may commence a civil action on the person's own behalf against any of the public agencies specified in subdivision (b) of Section 44203, or against the secretary, who is alleged to have approved or certified the sufficiency of any cooperative agreement or permit in violation of this article. No action may be commenced under this section more than 60 days after the agency or secretary has approved or certified the sufficiency of any cooperative agreement or permit under this article.

(Added by Stats. 1991, Ch. 805, Sec. 4.)

44210. Notwithstanding this article, a cocomposting facility located in Indian country with a memorandum of agreement adopted November 29, 1989, with the California Regional Water Quality Control Board, Colorado River Basin Region 7, shall be allowed to continue to operate under the terms of that agreement until January 1, 1993, or the date the project complies with this article, whichever date is earlier.

(Added by Stats. 1991, Ch. 805, Sec. 4.)

DIVISION 34. ENVIRONMENTAL PROTECTION

(Heading amended by Stats. 1994, Ch. 1112, Sec. 2.)

PART 1. PERMITS

(Heading added by Stats. 1994, Ch. 1112, Sec. 3.)

71000. This division shall be known, and may be cited, as the Environmental Protection Permit Reform Act of 1993.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71001. The Legislature hereby finds and declares all of the following:

(a) California's environmental protection programs have established strict standards to reduce pollution and protect the public health and safety and the environment. The single purpose programs instituted to achieve these standards have been among the most successful

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efforts in the world, and have produced significant gains in protecting California's environment in the face of substantial population growth.

(b) Continued progress to achieve the environmental standards in face of continued population growth will require greater coordination between the single purpose environmental programs and more efficient operation of these programs overall. Pollution must be prevented and controlled and not simply transferred to another media or another place. This goal can only be achieved by maintaining the current environmental protection standards and by greater integration of the existing programs.

(c) As the number of environmental laws and regulations have grown in California, so have the number of permits required of business and government. This regulatory burden has significantly added to the cost and time needed to obtain essential operating permits in California. The increasing number of individual permits and permit authorities has generated the continuing potential for conflict, overlap, and duplication between the various state, local, and federal environmental permits.

(d) To ensure that local needs and environmental conditions receive the proper attention, the issuance of environmental permits should continue to be made, to the extent feasible, at the regional and local levels of the environmental programs. To establish the framework for coordination among the regional offices of the environmental protection programs, consistency in regional boundaries should be achieved to the maximum extent practicable.

(e) The purpose of this division is to require the Secretary for Environmental Protection to institute new, efficient procedures which will assist businesses and public agencies in complying with the environmental quality laws in an expedited fashion, without reducing protection of public health and safety and the environment.

(f) Those procedures need to provide a permit process that promotes effective dialogue and ensures ease in the transfer and clarification of technical information, while preventing duplication. It is necessary that the procedures establish a process for preliminary and ongoing meetings between the applicant, the consolidated permit agency, and the participating permit agencies, but do not preclude the applicant or participating permit agencies from individually coordinating with each other.

(g) It is necessary, to the maximum extent practicable, that the procedures established in this division ensure that the consolidated permit agency process and applicable permit requirements and criteria are integrated and run concurrently, rather than consecutively.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

CHAPTER 2. DEFINITIONS

(Chapter 2 added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71010. "Secretary" means the Secretary for Environmental Protection.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71011. "Environmental agency" means any of the following:

(a) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the

California Integrated Waste Management Board, and the Office of Environmental Health Hazard Assessment.

(b) A California regional water quality control board.

(c) A district, as defined in Section 39025 of the Health and Safety Code.

(d) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(e) A county agricultural commissioner with respect to his or her administration of Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(f) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(g) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(h) Any other state, regional, or local permit agency for the project that participates at the request of the permit applicant upon the permit agency's agreement to be subject to this division.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71012. "Environmental permit" means any license, certificate, registration, permit, or other form of authorization required by an environmental agency to engage in a particular activity. "Environmental permit" includes, but is not limited to, activities subject to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, if the activities are under the jurisdiction of an environmental agency. "Environmental permit" does not include any certification or decision pursuant to Division 13 (commencing with Section 21000).

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71013. "Project" means an activity, the conduct of which requires an environmental permit from two or more environmental agencies.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71014. "Consolidated permit" means a permit incorporating the environmental permits granted by environmental agencies for a project and issued in a single permit document by the consolidated permit agency.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71015. "Consolidated permit agency" means the environmental agency that has the greatest overall jurisdiction over a project, as determined pursuant to Section 71020.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71016. "Participating permit agency" means an environmental agency, other than the consolidated permit agency, that is responsible for the issuance of an environmental permit for a project.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71017.(a) "Council" means the California Environmental Policy Council.

(b) The council is hereby created and consists of the following members or their designees:

- (1) The Secretary for Environmental Protection.
- (2) The Director of Pesticide Regulation.
- (3) The Director of Toxic Substances Control.
- (4) The Chairperson of the State Air Resources Board.
- (5) The Chairperson of the State Water Resources Control Board.
- (6) The Director of the Office of Environmental Health Hazard Assessment.
- (7) The Chairperson of the California Integrated Waste Management Board.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

CHAPTER 3. CONSOLIDATED PERMITS

(Chapter 3 added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71020. (a) On or before January 1, 1995, the secretary shall establish an administrative process which may be used, at the request of a permit applicant for a project pursuant to Section 71021, for the designation of a consolidated permit agency for the project.

(b) That administrative process shall consist of the establishment of guidelines for designating the consolidated permit agency for the project. The guidelines shall be adopted as regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code. In those cases where an environmental agency is the lead agency for purposes of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, or Division 13 (commencing with Section 21000), that environmental agency shall be the consolidated permit agency. In other cases, the guidelines shall require that at least the following factors be considered in determining which environmental agency has the greatest overall jurisdiction over the project:

- (1) The types of facilities or activities that make up the project.
- (2) The types of public health and safety and environmental concerns that should be considered in issuing environmental permits for the project.
- (3) The environmental medium that may be affected by the project, the extent of those potential effects, and the environmental protection measures that may be taken to prevent the occurrence of, or to mitigate, those potential effects.
- (4) The regulatory activity that is of greatest importance in preventing or mitigating the effects that the project may have on public health and safety or the environment.
- (5) The statutory and regulatory requirements that apply to the project and the complexity of those requirements.

(c) The secretary shall also establish a procedure for referring projects to the council for the designation of a consolidated permit agency in any of the following circumstances:

(1) Because of the nature of the project, the guidelines adopted pursuant to subdivision (a) do not provide clear guidance concerning which environmental agency should be designated the consolidated permit agency.

(2) The consolidated permit agency or a participating permit agency disagrees with the designation of the consolidated permit agency.

(3) The environmental agency designated as the consolidated permit agency under the guidelines declines the designation and participating permit agencies are not willing to accept designation as the consolidated permit agency.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71021.(a) A permit applicant for a project may request the secretary to designate a consolidated permit agency to administer the processing and issuance of a consolidated permit for the project pursuant to this division. The secretary, in accordance with the guidelines and procedures adopted pursuant to Section 71020, shall, within 30 days of the date that the request is received, either designate a consolidated permit agency for the project or refer the designation to the council.

(b) A permit applicant who requests the designation of a consolidated permit agency shall provide the secretary with a description of the project, a preliminary list of the environmental permits that the project may require, the identity of any public agency that has been designated the lead agency for the project pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code or Division 13 (commencing with Section 21000) of the Public Resources Code, and the identity of the participating permit agencies. The secretary may request any information from the permit applicant that is necessary to make the designation under subdivision (a), and may convene a scoping meeting of the likely consolidated permit agency and participating permit agencies in order to make that designation.

(c) The consolidated permit agency shall serve as the main point of contact for the permit applicant with regard to the processing of the consolidated permit for the project and shall manage the procedural aspects of that processing consistent with existing laws governing the consolidated permit agency and participating permit agencies, and with the procedures agreed to by those agencies in accordance with Section 71022. In carrying out these responsibilities, the consolidated permit agency shall ensure that the permit applicant has all the information needed to apply for all the component environmental permits that are incorporated in the consolidated permit for the project, coordinate the review of those environmental permits by the respective participating permit agencies, ensure that timely environmental permit decisions are made by the participating permit agencies, and assist in resolving any conflict or inconsistency among the environmental permit requirements and conditions that are to be imposed by the participating permit agencies with regard to the project.

(d) This division shall not be construed to limit or abridge the powers and duties granted to a participating permit agency pursuant to the law that authorizes or requires the agency to issue an environmental permit for a project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component environmental permit that is within its scope of its responsibility, including, but not limited to, the determination of environmental permit application completeness, environmental permit approval or approval with conditions, or environmental permit denial. The consolidated permit agency may not substitute its judgment for that of a participating permit agency on any such nonprocedural matters.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71022.(a) Within 15 working days of the date that the consolidated permit agency is designated, the consolidated permit agency shall convene a meeting with the permit applicant for the project and the participating permit agencies. The meeting agenda shall include at least all of the following matters:

(1) A determination of the environmental permits that are required for the project.

(2) A review of the environmental permit application forms and other application requirements of the agencies that are participating in the consolidated permit.

(3) A discussion of the option available to the permit applicant to use the consolidated permit application form that is authorized by subdivision (e) or (f) of Section 15399.56 of the Government Code in lieu of the separate application forms for each component environmental permit that would be provided by the consolidated permit agency and the participating permit agencies.

(4) A determination of the time lines that will be used by the consolidated permit agency and each participating permit agency to make environmental permit decisions, including the time periods required to determine if the environmental permit applications are complete or the consolidated permit application is complete, to review the application or applications, and to process the component environmental permits, and the timelines that will be used by the consolidated permit agency to aggregate the component environmental permits into, and to issue, the consolidated permit. Notwithstanding Chapter 3 (commencing with Section 15374) of Part 6.7 of Division 3 of Title 2 of the Government Code, and Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, the timelines established pursuant to this paragraph may, with the assent of the consolidated permit agency and each participating permit agency, commit the consolidated permit agency and each participating permit agency to act on the component environmental permit within time periods that are different than those required by Sections 65950 and 65952 of the Government Code, subdivisions (a) and (b) of Section 15376 of the Government Code, or other applicable provisions of law. However, no accelerated time period for the consideration of an environmental permit application may be set if that accelerated time period would be inconsistent with, or in conflict with, any time period or series of time periods set by statute for that consideration, or with any statute, rule, or regulation, or adopted state policy, standard, or guideline, which require any of the following:

(A) Other agencies, interested persons, or the public to be given adequate notice of the application.

(B) Other agencies to be given a role in, or be allowed to participate in, the decision to approve or disapprove the application.

(C) Interested persons or the public to be provided the opportunity to challenge, comment on, or otherwise voice their concerns regarding the application.

(5) The scheduling of any public hearings that are required to issue environmental permits for the project and a determination of the feasibility of coordinating or consolidating any of those required public hearings.

(6) A discussion of fee arrangements for the consolidated permit process, including an estimate of the fee required under Section 71026 and the billing schedule.

(b) The consolidated permit agency may request any information from the applicant that is necessary to comply with its obligations under this section, consistent with the timelines set pursuant to this section.

(c) A summary of the decisions made pursuant to this section shall be made available for public review upon the filing of the consolidated environmental permit application or environmental permit applications.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71023.(a) The permit applicant may withdraw from the consolidated permit process by submitting to the consolidated permit agency a written request that the process be terminated. Upon receipt of the request, the consolidated permit agency shall notify the secretary and each participating permit agency that a consolidated permit is no longer applicable to the project.

(b) The permit applicant may submit a written request to the consolidated permit agency that the permit applicant wishes a participating permit agency to withdraw from participation on the basis of a reasonable belief that the issuance of the consolidated permit would be accelerated if the participating permit agency withdraws. In that event, the participating permit agency shall withdraw from participation if the consolidated permit agency approves the request.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71024. The consolidated permit agency shall ensure that the participating permit agencies make all the environmental permit decisions that are necessary for the incorporation of the environmental permits into the consolidated permit and act on the component environmental permits within the time periods established pursuant to paragraph (4) of subdivision (a) of Section 71022.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71025. Each environmental permit incorporated in the consolidated permit shall have the legal status and the regulatory effect that is specified in the statute and regulations under which the environmental permit would be separately issued and shall be administered and enforced by the environmental agency that would have separately issued it.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71026.(a) A consolidated permit agency may charge and collect a reasonable fee from any person seeking a consolidated permit to recover the estimated costs incurred by the consolidated permit agency in carrying out the requirements of this division.

(b) The fees charged shall recover only the costs of performing those consolidated permit services and shall be either negotiated with the permit applicant in the meeting required pursuant to Section 71022, or shall be set by the environmental agency in advance of its designation as a consolidated permit agency for the project in a fee schedule adopted by the environmental agency for use in the event that the environmental agency is so designated. In addition, the billing process shall provide for accurate time and cost accounting and a billing cycle that provides for progress payments.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71027. A petition by the permit applicant for review of an environmental agency action in issuing, denying, or amending an environmental permit, or any portion of a consolidated permit agency permit, shall be submitted by the permit applicant to the consolidated permit agency or the participating permit agency having jurisdiction over that portion of the consolidated permit and shall be processed in accordance with the procedures of that environmental agency. The environmental agency receiving the petition shall, within 30 days, notify the other environmental agencies participating in the original consolidated permit.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71028. If an applicant petitions for a significant amendment or modification to a consolidated permit application or any of its component environmental permit applications, the consolidated permit agency shall reconvene a meeting of the participating permit agencies, conducted in accordance with Section 71022.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71029. If an applicant fails to provide information required for the processing of the component environmental permit applications for a consolidated permit or for the designation of a consolidated permit agency, the time requirements of this division shall be tolled until such time as the information is provided.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

CHAPTER 4. TIME LIMIT APPEALS

(Chapter 4 added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

71030. (a) On or before December 31, 1994, the secretary shall adopt regulations establishing an expedited appeals process by which a petitioner or applicant may appeal any failure by an environmental agency to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established pursuant to Section 71022 or Section 25199.6 of the Health and Safety Code.

(b) If the secretary finds that the time limits under appeal have been violated without good cause, the secretary shall establish a date certain by which the environmental agency shall act on the permit application with adequate provision for the requirements of subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of Section 71022, and provide for the full reimbursement of any filing or permit processing fees paid by the applicant to the environmental agency for the permit application under appeal. For purposes of this section, "good cause" shall have the same meaning as defined in subdivision (h) of Section 15376 of the Government Code.

(c) The determination of the secretary on an appeal shall be based only on procedural violations, including, but not limited to, the exceeding of time limits, not on any nonprocedural matter with regard to the environmental permit application or the environmental permit.

(d) In cases of a violation of time limits set pursuant to Section 71022, the determination of the secretary to order a reimbursement of any application filing fee pursuant

to the regulations adopted pursuant to paragraph (2) of subdivision (b) shall only be applicable to the consolidated permit agency or to the participating permit agencies that are in violation of the time limits without showing good cause.

(e) Notwithstanding any other provision of this section, an appeal pursuant to subdivision (a) shall be only for violations of the time limits established pursuant to Section 71022 for those environmental agencies described in subdivisions (c) and (h) of Section 71011.

(Added by Stats. 1993, Ch. 419, Sec. 5. Effective January 1, 1994.)

CHAPTER 5. PERMIT CONSOLIDATION ZONE PILOT PROGRAM

(Chapter 5 added by Stats. 1995, Ch. 872, Sec. 1.)

71035. As used in this chapter:

(a) "Certified unified program agency" means a certified unified program agency as designated under Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code.

(b) "Environmental agency" means an environmental agency as defined in subdivisions (a) to (g), inclusive, of Section 71011.

(c) "Environmental permit" means any environmental permit issued by an environmental agency or a certified unified program agency.

(d) "Facility compliance plan" means a plan that does all of the following:

(1) Contains information and data for all emissions and discharges from the facility and the management of solid waste and hazardous waste, including all information relevant to individual environmental permits that would otherwise be required for the facility.

(2) Specifies measures, including, but not limited to, monitoring, reporting, emissions limits, materials handling, and throughputs, to be taken by the project applicant to ensure compliance with all environmental permits that would otherwise be required.

(3) Meets the requirements of all individual environmental permits that would otherwise be required.

(4) Ensures compliance with all applicable environmental rules, regulations, laws, and ordinances.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.1. On or before January 1, 1997, the secretary shall adopt regulations establishing the permit consolidation zone pilot program consisting of all of the following:

(a) An application process whereby cities and counties may request that all or part of their jurisdiction be designated a permit consolidation zone.

(b) An administrative process which may be used for new or expanded facilities within a designated permit consolidation zone, at the option of the permit applicant, to substitute a facility compliance plan for any environmental permit. The application process shall contain a means to determine that new or expanded facilities are in compliance with all applicable laws and requirements.

(c) A process to coordinate inspection and enforcement activities among the agencies that would otherwise have issued individual permits for facilities choosing to be permitted through a facility compliance plan.

(d) Procedures pursuant to which applicant cities and counties may amend or terminate the designation.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.2. The regulations required by Section 71035.1 shall be developed by the secretary in coordination with the Secretary for Trade and Commerce, the Secretary of the Resources Agency, and the Secretary for Business, Transportation and Housing, and in consultation with representatives of cities, counties, local environmental agencies, and certified unified program agencies.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.3. The application process required by subdivision (a) of Section 71035.1 shall provide for all of the following:

(a) A competitive application process which designates not more than 20 cities and counties with a population greater than 5,000 as determined in the 1990 census, or parts thereof, as a permit consolidation zone.

(b) The award of designations by a review panel composed of the secretary and the Secretary for Trade and Commerce.

(c) The award of designations based on the applications submitted. In awarding designations, the review panel shall consider the extent to which the applicant has instituted permit streamlining measures for permits under its authority, whether there is a single certified unified program agency within the boundaries of the area proposed in the application, whether provisions are included to ensure adequate public participation in the final permit decisions on facilities subject to a facility compliance plan, and the extent of existing or proposed agreements between the applicant and other local, state, and regional permitting agencies with jurisdiction within the boundaries of the area proposed in the application.

(d) A requirement that all cities, counties, and local environmental agencies with permit authority over the projects subject to a facility compliance plan within the proposed permit consolidation zone agree to the designation.

(e) In awarding designations, ensure a diverse range of permit consolidation zones, including, but not limited to, urban and rural counties, large and small cities, and communities encompassing military base or reservations reuse.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.4. (a) (1) A designated city or county may terminate its involvement in the pilot program established pursuant to this chapter following 180 days' written notice to the secretary. The permit consolidation zone shall be deemed terminated at the end of the 180-day notice period.

(2) Notwithstanding any other provision of law, any facility within the terminated permit consolidation zone permitted through a facility compliance plan pursuant to Section 71035.5 shall be deemed to hold valid environmental permits until individual environmental permits are issued or denied for the facility by the applicable environmental agencies.

(b) An application for amendment to a permit consolidation zone designation shall be submitted by the applicable city or county to the review panel under Section 71035.3. Any amendment shall become effective within 90 days after the date of receipt by the review panel.

(c) The procedure for replacing a facility compliance plan in whole or in part with individual environmental permits, as a result of an amendment or termination of a permit consolidation zone designation, shall be specified in the applications submitted pursuant to Section 71035.3.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.5. The facility compliance plan substituted pursuant to subdivision (b) of Section 71035.1 shall provide for all of the following:

(a) Substitution of the plan for all individual state agency and local environmental permits that would otherwise be required for the proposed project, unless otherwise specified in the designation application submitted by the applicant city or county.

(b) Measures to be taken by the project applicant to ensure compliance with all applicable rules, regulations, ordinances, and statutes and to ensure that the facility compliance plan is as enforceable as individual permits.

(c) The equivalent opportunity for public notice, hearing, comment, participation, administrative appeal, and judicial review as provided in the environmental permit process that would otherwise be applicable.

(d) All applicable individual environmental permits for the project to be deemed to have been issued upon receipt of a complete and adequate facility compliance plan by the secretary.

(e) A filing fee to reflect the reasonable costs of all agencies that would otherwise issue individual permits for the project covered by the facility compliance plan, and that also reflects the reduced costs of the applicable agencies through reduced staff review of individual permits. Any fee shall be subject to Section 57001 of the Health and Safety Code. The project applicant shall not be liable for any application fees for any individual permit that is otherwise addressed in the facility compliance plan. Local agencies shall identify and quantify any local fees in the application submitted pursuant to Section 71035.3.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.6. (a) Environmental agencies with jurisdiction over portions of the compliance plan shall determine if a compliance plan is complete and adequate, in accordance with this section, as it relates to their particular area of jurisdiction.

(b) A determination of completeness and adequacy shall be based solely upon whether there is compliance with the rules, regulations, ordinances, and statutes governing the environmental agency. As part of the determination of adequacy, an environmental agency may require additional conditions necessary, in its judgment, to make the facility compliance plan consistent with its rules, regulations, ordinances, and statutes.

(c) If an environmental agency possessed discretionary authority over a facility prior to the enactment of this chapter, then the determination of completeness and adequacy shall be a discretionary action for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000)). If, subsequent to the enactment of this chapter, an environmental agency, by regulation, eliminates its discretionary authority over a facility, then the determination of completeness and adequacy shall not be a discretionary action for purposes of the California Environmental Quality Act.

(d) An environmental agency shall transmit its determination to the secretary within 45 days from the date of receipt of the facility compliance plan.

(e) (1) If an environmental agency determines that a facility compliance plan is not complete and adequate, the agency shall, within the 45-day period specified in subdivision (d), transmit that determination, in writing, to the project applicant. The agency's determination shall specify those parts of the plan that are incomplete or inadequate and shall indicate the manner in which they can be made complete and adequate, including a list and thorough description of the specific information needed to make the plan complete and adequate. The project applicant shall submit materials to the environmental agency in response to the list and description.

(2) Not later than 30 calendar days after receipt of the submitted materials, the environmental agency shall determine in writing whether they are complete and adequate and shall immediately transmit that determination to the applicant. If the written determination is

not made within the 30-day period, the application together with the submitted materials shall be deemed complete and adequate for purposes of this chapter.

(3) If the plan together with the submitted materials are determined not to be complete and adequate pursuant to paragraph (2), the environmental agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. Notwithstanding a decision pursuant to paragraph (2) that the application and submitted materials are not complete and adequate, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete and adequate for the purposes of this chapter.

(4) Nothing in this section precludes an applicant and an environmental agency from mutually agreeing to an extension of any time limit provided by this section.

(f) All applicable individual environmental permits for the project shall be deemed to have been issued upon receipt of a complete and adequate facility compliance plan, as determined by the secretary, after receiving the determinations of completeness and adequacy from environmental agencies pursuant to subdivision (a). In determining completeness and adequacy, the secretary shall not substitute his or her judgment for that of the applicable environmental agencies.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.7. The secretary shall provide regulatory assistance with regard to projects permitted through a facility compliance plan.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.8. Facility compliance plans may not be applied to projects involving any of the following:

- (a) The incineration of wastes.
- (b) The storage, treatment, transportation, or disposal of radioactive materials.
- (c) Other activities that the secretary determines, based on risks to the environment and the public health and safety, to be appropriately regulated through individual permits.
- (d) Other activities within a specific permit consolidation zone as requested by the city or county in its application submitted pursuant to Section 71035.3.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.9. This chapter shall be implemented by the secretary only to the extent consistent with federal law and any delegation agreements with federal agencies.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.10. The secretary and the Secretary for Trade and Commerce shall prepare and submit an annual report to the Governor and the Legislature by January 31 of each year, containing the following:

(a) A description and location of facilities permitted through a facility compliance plan, including the number of individual environmental permits that otherwise would have been required, an estimate of cost savings to the participating facilities and the involved environmental agencies as a result of the pilot program, and the degree to which compliance with the applicable environmental laws and regulations has been maintained or increased through the pilot program.

(b) As appropriate, recommendations for modification, expansion, or elimination of the pilot program established by this chapter.

(c) Recommendations for how the pilot program could be expanded to complex facilities including, but not limited to, whether the 45-day review of facility plan completeness and adequacy should be expanded.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

71035.11. This chapter shall remain in effect until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends that date.

(Added by Stats. 1995, Ch. 872, Sec. 1.)

PART 2. ENVIRONMENTAL DATA REPORTING

(Heading added by Stats. 1994, Ch. 1112, Sec. 4.)

CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATIONS

(Heading added by Stats. 1994, Ch. 1112, Sec. 4.)

71050. The Legislature hereby finds and declares all of the following:

(a) Environmental data is currently required by, and submitted to, a variety of public agencies with jurisdiction at the state, regional, and local levels of government. The same information is often submitted by the regulated community to different public agencies, almost always on one or more paper forms. Since a different format is now required for each such report, data items are required to be reformatted one or more additional times at a cost of time and money that brings no accompanying environmental benefit.

(b) The blizzard of incoming paper reports often exceeds the capacity of a public agency to digest the information. In some cases, the public agency cannot look at or evaluate all of the data received on paper. That problem of data utility is aggravated further by the current wasteful and error-laden practice of retyping data from paper forms into the public agency's computer data base.

(c) In many cases, reported data originates in a computer data base maintained by the company submitting the report. The retyping of data by the public agency could be completely eliminated if business entities were permitted to submit the data in a single electronic format which every public agency could then use. That standard approach would permit both business entities and public agencies to save time and money that is now spent in reformatting, reentering, and reediting data. The data would also be available more quickly to any member of the public interested in using the data.

(d) Business entities already use common, standardized electronic data formats and protocols to exchange commercial and technical information on materials to be transported and used in manufacturing. That application of electronic data interchange is an important factor in determining the competitiveness of business entities in this state. The imposition by government of barriers to, or multiple incompatible data format requirements on, those existing electronic interchanges impairs the competitiveness of business entities without bringing any accompanying environmental benefit.

(e) It is the policy of the state, for environmental and hazardous materials reporting purposes, to employ nonproprietary electronic data formats and transmission protocols that already function effectively for ongoing commercial and industrial data exchanges between business entities and across different computer operating systems instead of expending public funds to develop public agency-specific formats and protocols.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

CHAPTER 2. DEFINITIONS

(Heading added by Stats. 1994, Ch. 1112, Sec. 4.)

71053. "Advisory committee" means the Environmental Data Management Advisory Committee established pursuant to Section 71064.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71054. "Agency" means the California Environmental Protection Agency.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71055. "Secretary" means the Secretary for Environmental Protection.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

CHAPTER 3. DATA MANAGEMENT

(Heading added by Stats. 1994, Ch. 1112, Sec. 4.)

71060. The secretary shall develop and adopt information technology standards by which public agencies and regulated business entities and the other members of the regulated community may use computers and other information technology to specify, request, report, collect, communicate, process, display, disseminate, or otherwise utilize data for environmental data reporting requirements that are imposed in the course of granting permits or other authorizations to operate issued pursuant to specified provisions of state and federal law and regulations.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71061. The secretary shall establish a standardized electronic format and protocol for the exchange of electronic data for the purpose of meeting environmental data reporting or other usage requirements that are imposed in the course of granting permits or other authorizations to operate pursuant to all of the following laws and regulations adopted pursuant to those laws:

(a) Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), and Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

(b) Article 1 (commencing with Section 42300) of Chapter 4 of Part 4 of Division 26 of the Health and Safety Code.

(c) Division 7 (commencing with Section 13000) of the Water Code.

(d) The Solid Waste Disposal Act (42 U.S.C. Sec. 6901 et seq.).

(e) The Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sec. 11001 et seq.).

(f) Any other law relating to environmental protection, including, but not limited to, hazardous waste, substances, and materials, as determined by the secretary.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71062. The secretary shall identify the environmental data reporting or usage requirements imposed pursuant to the laws listed in Section 71061 and reflect those requirements in the elements of the standardized electronic format and protocol, develop a data dictionary that describes the characteristics of each format element and its relationship to each environmental data reporting or usage requirement, and develop evaluation criteria by which the successful use of the standardized electronic format and protocol may be measured.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71063.(a) The proposed standardized electronic format and protocol required by Section 71061 and the alternative signature techniques required by Section 71066 shall be tested in the Counties of Santa Clara and San Mateo as a pilot program, for a period determined by the secretary, and at the initiative of business entity report submitters who have organized to implement electronic data interchange among themselves for other business purposes and who wish to employ the same technology for exchanging environmental data. Any of the participating business entities located within those counties who are required to comply with the environmental data reporting requirements imposed pursuant to the laws listed in Section 71061, may comply by submitting the data in the prescribed standardized electronic format.

(b) The secretary shall meet the requirements of Section 71063 using resources contributed exclusively by business participants. The secretary may accept and use computer hardware, software, and support services furnished by the industry or business participants at their own cost in order for the agency to participate in the pilot program. No public funds shall be encumbered in order to conduct, or pay for, any part of the pilot program originally undertaken or provided by any business participant. The brands of products employed shall not be identified in public, nor shall their use be deemed an endorsement of any particular brand or proprietary approach to electronic data interchange.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71064.(a) There is in the agency the Environmental Data Management Advisory Committee. The advisory committee shall consist of not more than seven members appointed by the secretary. The secretary shall select members who represent business, government, and environmental groups, and who have proven expertise and current knowledge in the field of electronic data exchange.

(b) The advisory committee shall commence to function by March 1, 1995. The advisory committee shall advise the secretary on the quickest, most effective, and least expensive alternative systems of electronic standards for formatting data.

(c) On or before July 1, 1996, the advisory committee shall submit a report to the secretary which describes the pilot program conducted pursuant to Section 71063. This report shall include, but is not limited to, an analysis of the costs and benefits of the format protocol, and signature techniques used in the pilot program, a discussion of the results obtained by

using the evaluation criteria developed pursuant to Section 71062, and a discussion of the implications for statewide implementation of the program.

(d) The meetings of the advisory committee shall be open to the public and shall provide an opportunity for the public to be heard on matters considered by the advisory committee.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71065. To the fullest extent practicable to public agencies and business entities, the secretary, in close consultation with the advisory committee, shall ensure that the standardized electronic format and protocol established pursuant to Section 71061 meets all of the following criteria:

(a) The format and protocol conforms with, or is compatible with, data interchange formats and protocols already in use in the regulated community for moving data from computer to computer, so that the format and pilot program may be implemented promptly, without the need for research and development into untried formats and protocols.

(b) The format and protocol works independently of the type of computer hardware, software, operating system, data storage device, and telecommunications equipment employed by prospective senders and receivers.

(c) The format and protocol accommodates the addition of new or revised data element specifications without requiring users to make costly modifications to the hardware or software that they employ to submit electronic data.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71066. The secretary shall prescribe one or more techniques by which a report may be signed electronically by a person who would otherwise place a written signature on a paper version of the report. The prescribed electronic signature shall be binding on all persons and for all purposes under the law as if the signature had been made in ink on the equivalent paper document. The secretary may also prescribe a paper form for signature and certification of a report submitted in the prescribed file format on tangible magnetic media, including, but not limited to, floppy disks or magnetic tape.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)

71067. Public agencies shall continue their current data auditing practices, and shall work with data submitters to correct all kinds of data error encountered. The pilot program shall require that each participant maintain an audit trail as part of the evaluation criteria so that inspectors and other evaluators may ensure that the data submitted comport with the data received along the electronic link.

(Added by Stats. 1994, Ch. 1112, Sec. 4.)